

CITY COUNCIL COMBINED SPECIAL  
MEETING/WORK SESSION  
TUESDAY, MAY 8, 2016  
COUNCIL CHAMBERS  
211 WEST ASPEN  
6:00 P.M.

## **SPECIAL MEETING**

### **1. Call to Order**

Mayor Nabours called the Special Meeting of March 8, 2016, to order at 6:04 p.m.

#### **NOTICE OF OPTION TO RECESS INTO EXECUTIVE SESSION**

*Pursuant to A.R.S. §38-431.02, notice is hereby given to the members of the City Council and to the general public that, at this work session, the City Council may vote to go into executive session, which will not be open to the public, for legal advice and discussion with the City's attorneys for legal advice on any item listed on the following agenda, pursuant to A.R.S. §38-431.03(A)(3).*

### **2. Pledge of Allegiance**

The audience and City Council recited the Pledge of Allegiance.

### **3. Roll Call**

*NOTE: One or more Councilmembers may be in attendance telephonically or by other technological means.*

PRESENT:

MAYOR NABOURS  
VICE MAYOR BAROTZ  
COUNCILMEMBER BREWSTER  
COUNCILMEMBER EVANS  
COUNCILMEMBER ORAVITS  
COUNCILMEMBER OVERTON  
COUNCILMEMBER PUTZOVA

ABSENT:

NONE

Others present: City Manager Josh Copley and City Attorney Michelle D'Andrea.

4. Settlement Agreement and Release between the Hopi Tribe and the City of Flagstaff (City). (Agreement to settle litigation between the City and the Hopi Tribe relating to use of reclaimed water at the Arizona Snowbowl).

Utilities Director Brad Hill gave a PowerPoint presentation which addressed:

#### HISTORY

2002  
2011  
2012  
2014

Ms. D'Andrea said that the Settlement Agreement, which became a public document last Friday, would resolve the litigation between the City and the Hopi Tribe and releases all of the claims. In exchange, the City is going to construct an earthen filtration system.

#### EARTHEN FILTRATION SYSTEM

Capital Cost Estimates: \$1.6 Million

O, M & R: \$181,000

Next Steps: 30% design will refine cost estimates and media types

Would be in service for the 2017/18 ski season

Vice Mayor Barotz said that the staff report says there may be ongoing operations and maintenance. She asked if it would be "may" or "shall." Ms. D'Andrea replied that it would be "shall." She said that the agreement, as it stands, has the City responsible for the cost of construction and ongoing maintenance. That does not mean that the City does not have options going forward, but for now they should expect to pay the full costs.

Vice Mayor Barotz said that Page 4, #9, talks of the jurisdiction and how the Hopi Tribe is waiving its sovereign immunity. She does not know why. Ms. Storey said that she helped negotiate the contract and the jurisdictional issue was a very sensitive issue of negotiation. She said that the agreement is between the City and the Hopi Tribe, no one else.

Vice Mayor Barotz said that they received an e-mail that had a message from the attorney for the Hopi Tribe and it was hard to fully understand when the Hopi people understood the agreement. Ms. Storey said that it was confidential until last Friday.

Mayor Nabours said that there are other tribes in the Flagstaff vicinity, but this agreement only applies to the Hopi. He asked if there was a chance that one of the other tribes in Northern Arizona may bring another lawsuit that has not yet. Ms. D'Andrea said that if they would like legal advice, she would recommend moving into Executive Session.

Norman Honanie, Chairman of the Hopi Tribe Water Committee, addressed the Council stating that they were there to see what the Council does. He said that they have all worked on the agreement for a long time and they have done their part; he would not say any more.

Vice Mayor Barotz asked Mr. Honanie if he could comment on waiving their sovereign immunity. Mr. Honanie replied that he could not. Councilmember Putzova said that the tribal affairs were not well understood and she asked what happens when they vet decisions like this. Mr. Honanie said that he would say no more. This was Flagstaff's issue; the tribe has done their part.

The following individuals addressed the Council:

- Robert S. Vane
- Klee Benally
- Rudy Preston
- Katie Nelson
- Souta Callinglast

Comments received included:

- Surprised to see this item on the agenda
- What contaminants are to be removed?
- Who decided this was best and most cost-effective?
- Negotiators on both sides?
- Experts?
- Will it do what it is supposed to do?
- How reliable is the capital cost estimates and ongoing costs?
- Will these be added to the Reclaimed Water enterprise fund or charged to Snowbowl? Golf courses?
- Were other upstream solutions considered for all end users?
- Interesting that this was on the agenda the same day as Indigenous Peoples Day consideration
- Hard to stand against what Hopi Tribe is doing, but others were left out
- Cannot support further contamination of the ski area; could support ending the contract
- Don't think you should be making a decision yet unless Snowbowl is willing to contribute

Vice Mayor Barotz said that the one thing they have not discussed is the \$1.6 million and \$161,000 ongoing maintenance. She said that it is clear that Snowbowl is not paying so the burden is on the public.

Mr. Hill said that under the reclaimed water agreement that was done with Snowbowl in 2014 they inserted a clause that Snowbowl is required to pay for a certain amount of water, regardless of whether they actually receive it. That is roughly \$50,000 for fixed costs that Snowbowl will pay for either by taking the water or outright, so that cost would be borne by the reclaimed water users.

Mr. Copley said that staff has identified funding in the general fund to pay for the capital costs for constructing, should Council approve the agreement. Vice Mayor Barotz said that if they were finding that kind of money, it usually is coming from another program and she would like to know where it would be coming from.

Ms. Goodrich replied that through excess revenues and decreased expenditures they have some capacity available. They will also look to see if their transfers to the self-insurance fund could be reduced, while still being in a very good position.

Vice Mayor Barotz said that right before the meeting the Council received a memo from the Navajo Nation. She asked Ms. Storey how they, as officials elected to make public policy, get their arms around working with all of the tribes in the region, understanding that the agreement is between two parties involved in a litigation.

Ms. Storey said that it is a positive opportunity that has occurred over the last year between the two for understanding. There has been a great deal of pressure on the City to continue

litigating. The City did not take that approach; they sat down with the Hopi people. They toured the facility; they have spent countless hours looking at different options. In keeping with the contract and the obligations that the City has with Snowbowl, they are understanding and trying to resolve the litigation with the Hopi Tribe.

Ms. Storey said that she understands that there is anxiety for all to see how this came about. It is not easy, but one of the opportunities may be to have a workshop to allow everyone to understand what the system does. Perhaps they could invite the other tribal parties to better understand the benefits of the system.

Councilmember Putzova asked Ms. Storey if she was suggesting that before they take any action they consult with the other tribes to help them understand what the system is.

Ms. Storey said that is a decision for the Council to make. They have an agreement before them that the Hopi Tribe has unanimously approved. The education could come after a settlement agreement has been approved.

**Moved by** Councilmember Scott Overton to approve the settlement agreement; failed due to lack of a second.

## 5. Adjournment

The Special Meeting of the Flagstaff City Council held March 8, 2016, adjourned at 7:05 p.m.

## WORK SESSION

### 1. Call to Order

### 2. Public Participation

*Public Participation enables the public to address the council about items that are not on the prepared agenda. Public Participation appears on the agenda twice, at the beginning and at the end of the work session. You may speak at one or the other, but not both. Anyone wishing to comment at the meeting is asked to fill out a speaker card and submit it to the recording clerk. When the item comes up on the agenda, your name will be called. You may address the Council up to three times throughout the meeting, including comments made during Public Participation. Please limit your remarks to three minutes per item to allow everyone to have an opportunity to speak. At the discretion of the Chair, ten or more persons present at the meeting and wishing to speak may appoint a representative who may have no more than fifteen minutes to speak.*

The following individuals addressed the Council regarding the issues indicated:

Charlie Silver, Flagstaff, regarding the number of people signing the petitions opposing the HUB, and reminded those that supported first reading of the ordinance that those signing the petition may vote against them in the upcoming election.

John Viktora, Flagstaff, regarding it being International Day of the Woman and he recognized the women serving on the Flagstaff City Council.

### 3. Discussion of Indigenous Peoples. *\*THIS ITEM WAS MOVED FROM 4.*

Councilmember Putzova asked that staff briefly describe the report that was put together, reviewing the substance and content of that report, so everyone had a good understanding of what has been done so far. She said that her request to Council was to consider receiving a report on where they are with the MOU between the City and the Navajo Nation Human Rights Commission, which part has been implemented and what part is being worked on. She would also like a discussion on scheduling of future public hearings where they hear about the issues important to the Native American community. She would like them to learn what the issues are, including education, health, social, and cultural, and the economic impact to the community and how Flagstaff benefits.

Discussion was held on the format for public meetings. Councilmember Putzova said that she would like to see some opportunities for public input, perhaps in a town hall setting, or several, to identify ways to improve the lives in that context. She said that she was open to different types of meetings and different locations.

The following individuals addressed the Council:

- Teri Dunn
- Christopher Jocks
- J. Daisy Purdy

Comments received included:

- Thank you to Councilmember Putzova for addressing this issue
- Flagstaff has enjoyed and profited from their arts/crafts
- They do not vote in large numbers; they do not run for office
- Their lives are very much affected by policy decisions related to schools, police, water use and rates
- Questions the real benefit of Columbus Day
- Asking Council to support this resolution
- Benefits of such efforts far outweigh any associated costs
- It would be an opportunity for Flagstaff to stand far above other cities
- Privileged to be there today; is fully employed which gives her the luxury of time. Has a house filled by Flagstaff community members; they are sending a statement in support of an Indigenous Peoples Day on the second Monday of every October, beginning in 2017
- They support the other efforts being requested to meet with the public members
- Circulated a petition supporting: 1) public hearing opportunities; 2) Adopting an implementation plan for initiatives identified in public engagement; and 3) declaring Indigenous People's Day - in four days they received 234 signatures

A break was held from 7:30 p.m. to 7:42 p.m.

Public comment continued from:

- Joe Washington
- Cooper Montgomery
- Gabor Kovacs
- Klee Benally

- Adam Shimoni
- Jaime Yazzie
- Radmilla Cody
- Berta Benally
- Lyncia Begay
- Marnie Vail
- Makaius R. Marks
- John Viktora

Comments received included:

- Was elected to the Flagstaff City Council in 1990 with the help and support of the Native American community
- Echoed the question of why they would not want to move forward with these efforts
- Appreciates efforts of Councilmember Putzova and Vice Mayor Barotz to bring this item forward
- The racism, subrogation, lies; thinking about this gets very enraged and saddened, and feels homeless
- Their generations did not commit those crimes, but they are still affecting what occurs today. They can acknowledge the wrongdoings of those that came before them and start to attempt to heal those wounds that are open
- Supports unity; they have to have intellectual honesty in any discussion they have--indigenous people, the Council and the public
- Supports the Indigenous Peoples Day, but is a fly in the ointment to replace Columbus Day with it
- Their problems will not go away with a declaration for Indigenous Peoples Day, regardless of the Columbus issue
- He and his family participate in traditional dances, promoting the culture, and it is hard to dance feeling that it is a hollow gesture because their culture is not accepted
- Asking the Council to stand with them to be on the right side of the history being made
- About time that our representatives listen to the needs of the Native American people
- Is a current graduate student at NAU; constantly fighting for appropriate representative of her people
- Oftentimes does not feel safe and welcome because she is Navajo
- Indigenous Peoples Day is a perfect opportunity to recognize the relationship that the City has with the Navajo Tribe, and other tribes. It is an important step forward together
- The first step is dismantling the symbols of colonization; need to eliminate Columbus Day
- Columbus Day gives authority to ignore and encourage the murder and kidnapping; over 3,000 missing women remain unsolved
- They all have love and compassion for each other; need to live on their terms and with dignity
- Replacing Columbus Day with Indigenous Peoples Day would be on the right side
- The racial profiling is intolerable
- Have to stop the hatred and learn to live together
- Organizing a program on the radio to begin a process of truth and reconciliation
- Have you ever had people stare at you walking down the hall, thinking you're different, wondering why you wear accessories, called names because you dress different, act different, talk different? That's what he experiences every day going to Flagstaff High School
- A thousand years ago that was accepted as a Navajo, anywhere they went, until Columbus came with colonization of the country, and yet he (Columbus) is held up as a hero

In response to a question, Mr. Copley explained that the MOU with the Navajo Nation Human Rights Commission states that they will meet annually to discuss issues relevant to the MOU, and they have also taken that as a good opportunity to have a presentation. There would probably be another presentation in October 2016.

Vice Mayor Barotz said that she was on the Council when they approved the MOU, but something does not seem robust enough. She would like to receive information before October. Councilmember Evans asked if there was a way to include the other tribes in the conversation as well.

Councilmember Putzova said that the report outlines all of the meetings and planning, but it does not show any outcome. She asked how they know that the sensitivity training has been effective. Mr. Copley said that the MOU itself requires an annual report as a joint presentation. They continue to have frequent dialogue with Rodney Tahe, the liaison for the Navajo Nation Human Rights Commission. After further discussion the consensus was to:

- 1) have an additional report to Council next April on the outcome of the sensitivity training, to include some assessment or analysis.
- 2) Councilmember Putzova to work with Mr. Copley to get some town halls or less formal meetings scheduled, as a collective effort.
- 3) After they go through the process above to learn, identify policies, create a plan, they will bring back a piece of legislation to create an Indigenous Peoples Day, but it will not come up any time soon.

Councilmember Evans thanked Councilmember Putzova for bringing this forward; it is a conversation long overdue. She said that they need to seek out and add other tribes to the current MOU or create new MOU's. She said that they will not be easy conversations, but are needed. She was ready to move forward with considering the elimination of Columbus Day, but she would follow the will of the Council and address these other issues first.

The following individuals submitted written comment cards in support of Indigenous Peoples Day:

- Princess Benally
- Adrian Herder
- Marnie Vail
- James Anders
- Dawn Dyer
- Katie Nelson
- Diane Traylor
- Moran Henn
- Sage Nelson
- Maria Jensen
- Roxanne Peshlakai
- Jessi Kyte
- Jewel Honga
- Dexter Albert
- Angelina Castagno
- Alexander Ballesteros
- Emily Davalos
- Gerald Wood
- Jay Gallegos

- David Sabata
- Heather Martel
- Jody Manuelsto
- Toby Manuelsto
- Annabelle Nelson Ph.D
- Silvia Domingues Mateo
- Candice Lomahaftewa
- Rudy Preston
- J. Daisy Purdy
- Desiree Perez
- Al White
- Debra Kamzelski

**4. Annual Update: Flagstaff Downtown Business Improvement and Revitalization District. *\*THIS ITEM WAS MOVED FROM 3.***

Executive Director of the Flagstaff Downtown Business Alliance (FDBA) gave a PowerPoint presentation which highlighted the work done by the FDBA as the contracted manager for the Flagstaff Downtown Business Improvement and Revitalization District (FDBIRD):

BACKGROUND

FDBA

MANAGEMENT

DOWNTOWN FOR THE HOLIDAYS

HOLIDAY LIGHTS

MARKETING

SOCIAL MEDIA

ADVOCACY

PARKING

2016 PRIORITIES - MANAGEMENT

Clean Team/Ambassador Programs

New Website

Development Downtown Brady/Identity used on all platforms

Manage Leroux Street construction Impacts & Implement Mitigation/Assistance Program

Provide clean, welcoming, vibrant downtown

Complete block-by-block inventory

Selected as project manager for two City infrastructure jobs

Increase stakeholder communication - bi-weekly e-mail update to begin January

Strengthen coordination - CVB, Events, Police, Staff

2016 PRIORITIES - ADVOCACY

Continue to be part of conversation - even when not invited

Single point of contact for downtown issues

Position DBA as partner, advocate, influencer

Build upon unified and amplified voice

Participate in issues/policy discussions that affect downtown

Continue to strengthen relationships with partner organizations

2016 PRIORITIES - PARKING

Focus on end goal - more supply

Stick to plan, adjust as necessary



Stay on track

Launch customer-friendly PARK FLAG website that informs, promotes and explains system

Develop public parking map that can be utilized by partner organizations

Consider feasibility of fee for service - employee permits, off-street lots, evenings/weekends

Mayor Nabours asked if the area south of the tracks was included as part of the DBA.

Ms. Madeksza said that they are collecting information on all of the businesses south of the tracks. They are working hard to engage and bring them in and promote them as well. The FDBIRD boundaries are not synonymous with downtown Flagstaff. The FDBIRD services that their rate payers are paying for will remain within that district, but the advocacy will be broader.

Mayor Nabours said that it has helped him, as Mayor, to have someone speak for the group downtown. Ms. Madeksza said that there were 100 property owners paying into the district, but all of the businesses and City/County staff, everyone within there, is a stakeholder.

## **5. Continuation of Discussion of Disabled-Accessible Parking in Downtown**

Transportation Engineer Reid Miller gave a PowerPoint presentation recapping what has occurred since last December when he came before Council:

OVERVIEW

RECAP DISCUSSION IN DECEMBER

AVAILABLE PARKING DOWNTOWN

PENDING CHANGES

Mr. Miller said that they have changed the signs for the Library and City Hall, to clarify that it was for City business only EXCEPT ADA parking is exempt.

SUMMARY OF TOTALS

LEROUX LOT EXISTING

FLAGSTAFF ZONING CODE

OPTIONS:

Standard Head-In 60 Degree

Standard Head-In 45 Degree

Standard Back-in 60 Degree

Mr. Miller said that it was important to maintain the checked area in the Leroux Lot for the Police Department.

LEROUX LOT FINANCIAL IMPACTS

Some of the asphalt has sunken down as much as six inches

Removing about 20 x 50' and base coat, repaving and crack sealing entire, total \$20,000

If they removed the dumpster they could still come in under \$50,000; do not have hard bids yet

CITY COUNCIL CONSIDERATIONS

The following individuals addressed the Council:

- Al White

- Shari Peralta

Comments received included:

- Likes the idea of having the whole Leroux Lot becoming ADA parking
- As long as there's 16 feet to work with most of the situations with side by side
- Wanted to say thank you to everyone involved because they listened to them
- Public needs to know they can park in City Hall and Library lots and that there is more parking coming.
- Disability Awareness Commission could be instrumental in help with the changes being made and getting the word out.

Mayor Nabours asked Ms. Madeksza what she thought about the Leroux Street lot being all ADA parking. Ms. Madeksza said that they support this proposal, whichever option is chosen.

Consensus of Council was that they do all ADA parking at the Leroux Lot, Head-in 60 degrees, and do the repairs mentioned.

Mr. Miller added that back in December he met with the Disability Awareness Commission and they had desired to have more parking at special events and wanted to know what was involved in code enforcement. They had the Police Department come in and address those issues.

Vice Mayor Barotz and Councilmember Putzova left the meeting at this time (9:37 p.m.).

**6. Presentation and discussion:** Concerning a potential Request for Proposals for 308 Elden (*property designated for affordable housing near Sawmill*)

Housing Director Sarah Darr gave a PowerPoint on a potential request for proposals for 308 Elden which addressed:

OVERVIEW

BACKGROUND AND HISTORY

PROPERTY INFORMATION

WHAT DOES CURRENT ZONING ALLOW?

CATEGORIES OF PERMITTED USES IN HC

NEIGHBORHOOD MEETING - 8/5/15

NEIGHBORHOOD INPUT

SPECIFICALLY NOT IN FAVOR (of Industrial, Auto, Medical, Manufacturing, Schools, Drive-thrus)

MXED REVIEWS

WHAT IS THE OVERALL GOAL?

WHAT ARE THE OPTIONS?

QUESTIONS TO KEEP IN MIND

OPTION - SELL

OPTION - LONG-TERM COMMERCIAL LEASE (50-99 YEARS)

OPTION - RFP REQUIRING QUOTES FOR BOTH LEASE AND SALE

OPTION - DO NOTHING AT THIS TIME

WHAT COULD BE DONE WITH FUNDING GENERATED?

SUMMARY

HOUSING AUTHORITY BOARD RECOMMENDATION

RFP FOR BOTH LEASE AND SALE

**STAFF RECOMMENDATION**

Mayor Nabours asked whether the City would subordinate the lease to a construction loan. Ms. Darr said that is something they could examine. They have heard that it is and is not an issue. They would ask them what they would require.

Councilmember Overton said that the utilities are prepped. This is one of the most positive things out of it. They are in a great position to sell or lease and take that money to be used for housing consideration. He does not want to intertwine any of that issue with the Request for Proposals.

Councilmember Evans said that the property sits at the corner of Lonetree, Butler and Elden. They acquired it for affordable housing and she actually thinks it is well suited for affordable housing. She would like to see the RFP include some element of affordable housing and anything issued needs to be mindful of what the community said they did not want to see. Ms. Darr said that they could consider points against uses not wanted by the community.

Discussion was held and consensus was to put out an RFP leaving it open as to what uses would be considered with no reference to affordable housing.

**7. Report on Annual Lobbying Trip to Washington, D.C.**

Since it was after 10:00 p.m., Council agreed to postpone this item to another night.

**8. Public Participation**

None

**9. Informational Items To/From Mayor, Council, and City Manager; future agenda item requests.**

None

**10. Adjournment**

The Combined Special Meeting/Work Session of March 8, 2016, of the Flagstaff City Council adjourned at 10:11 p.m.

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MAYOR

ATTEST:

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CITY CLERK